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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

CLIFFORD MARSTON MORRISON,

Defendant and Appellant.

B160927

(Los Angeles County
Super. Ct. No. SA042850)

APPEAL from a judgment of the Superior Court of Los Angeles County,
Keith L. Schwartz, Judge. Affirmed.

Sandra L. Waite, under appointment by the Court of Appeal, for Defendant and
Appellant.

Bill Lockyer, Attorney General, Robert R. Anderson, Chief Assistant Attorney
General, Pamela C. Hamanaka, Senior Assistant Attorney General, William T. Harter,
Supervising Deputy Attorney General, and Juliet H. Swoboda, Deputy Attorney General,
for Plaintiff and Respondent.

Clifford Marston Morrison appeals from the judgment entered following his convictions by jury of carjacking (Pen. Code, § 215, subd. (a); count one), and two counts of first degree robbery of a transit operator (Pen. Code, §§ 211, 212.5, subd. (a); counts two and three). He was sentenced to prison for six years four months.

In this case, we hold that imposition of punishment on count two did not violate Penal Code section 654.

FACTUAL AND PROCEDURAL SUMMARY

Viewed in accordance with the usual rules on appeal (*People v. Ochoa* (1993) 6 Cal.4th 1199, 1206), the evidence, the sufficiency of which is undisputed, established that at about 6:00 p.m. on August 5, 2001, Martiros Mikayelyan, a taxicab driver, picked up appellant as a passenger near Washington and Pacific in Los Angeles. While Mikayelyan was driving, appellant put a gun to the back of Mikayelyan's neck and stated, "Motherfucker, pull over. It's not a joke. Give your money, your wallet, everything." After Mikayelyan pulled over, he gave appellant about \$90. Appellant asked for Mikayelyan's wallet but Mikayelyan did not have one. Mikayelyan showed his driver's license to appellant and offered to give it to him, but appellant did not take it. Appellant told Mikayelyan to exit the cab, walk straight, and not look back, or else appellant would shoot him. Mikayelyan tried to get the cab's keys before he exited but appellant told him not to do so. Appellant told Mikayelyan to put the car in park and leave it. Mikayelyan exited the cab and began walking. Appellant drove away in the cab.

At about 9:00 p.m. on August 5, 2001, Ayman Tashman, another taxi cab driver, picked up appellant as a passenger near Washington and Pacific. Appellant, while being driven by Tashman, robbed him.

Counts one and two of the information each alleged Mikayelyan as the victim; count three alleged Tashman as the victim. After appellant's convictions, the following occurred: "The Court: [¶] . . . [¶] As it relates to Mr. Mikayelyan, I don't think there is any 654 issue there because they are separate crimes. One is he took the car, and the other one he took his wallet [*sic*]. [¶] You want to be heard on that? [¶] [Defense Counsel]: No. [¶] The Court: Okay. People have any comments? [¶] [The

Prosecutor]: The People would agree with that analysis. Submitted.” Appellant was sentenced to prison for a total of six years four months, consisting of the five-year middle term on count one, a concurrent four-year middle term on count two, and a consecutive term of one year four months on count three.

CONTENTION

Appellant contends: “[t]he court erred in failing to stay the robbery sentence pursuant to Penal Code section 654.”

DISCUSSION

Imposition Of Punishment On Count Two Was Proper.

Appellant claims imposition of punishment on count two violated Penal Code section 654, because he was sentenced on count one. We disagree. Penal Code section 654 provides, in relevant part, that “[a]n act or omission that is punishable in different ways by different provisions of law shall be punished under the provision that provides for the longest potential term of imprisonment, but in no case shall the act or omission be punished under more than one provision.”

In *People v. Perez* (1979) 23 Cal.3d 545, the Supreme Court observed, “. . . it is well settled that section 654 applies not only where there was but one act in the ordinary sense, but also where there was a course of conduct which violated more than one statute but nevertheless constituted an indivisible transaction. [Citation.] Whether a course of conduct is indivisible depends upon the intent and objective of the actor. [Citation.] If all the offenses were incident to one objective, the defendant may be punished for any one of such offenses but not for more than one.” (*People v. Perez, supra*, 23 Cal.3d at p. 551.)

Perez also observed, “[o]n the other hand, if the evidence discloses that a defendant entertained multiple criminal objectives which were independent of and not merely incidental to each other, he may be punished for the independent violations committed in pursuit of each objective even though the violations were parts of an otherwise indivisible course of conduct.” (*Id.* at p. 551.) The “question whether the defendant held multiple criminal objectives is one of fact for the trial court, and its

finding will be upheld on appeal if there is any substantial evidence to support it.”
(*People v. Ratcliff* (1990) 223 Cal.App.3d 1401, 1408.)

A defendant can commit a single offense with multiple criminal objectives, and may be punished for that and another offense committed during a course of conduct if the two offenses shared some, but not all, criminal objectives. (*People v. Booth* (1988) 201 Cal.App.3d 1499, 1502 [defendant burgled with intent to steal and to commit sex offense, then committed the sex offense; multiple punishment for the burglary and sex offense proper]; see *People v. Latimer* (1993) 5 Cal.4th 1203, 1211-1212.)

In the present case, appellant robbed Mikayelyan of his money and cab (count two), and committed carjacking (count one). Appellant had independent criminal objectives since one of the criminal objectives of count two was the taking of money, but the sole criminal objective of count one was the taking of Mikayelyan’s cab. The purpose of Penal Code section 654’s protection against multiple punishment is to insure that the defendant’s punishment will be commensurate with the defendant’s criminal liability. (*People v. Perez, supra*, 23 Cal. at p. 552.) The present case is not one in which appellant was convicted on counts one and two based solely on his taking of Mikayelyan’s cab. Imposition of punishment on count two was proper. (Cf. *People v. Perez, supra*, 23 Cal.3d at pp. 551-552; *People v. Ratcliff, supra*, 223 Cal.App.3d at p. 1408; *People v. Booth, supra*, 201 Cal.App.3d at p. 1502.) None of the cases cited by appellant compels a contrary conclusion.

DISPOSITION

The judgment is affirmed.

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CROSKEY, J.

We concur:

KLEIN, P.J.

KITCHING, J.